



Lalit K. Loomba, Esq.
Direct Dial: (914) 872-7118
lalit.loomba@wilsonelser.com

January 9, 2013

By First Class Mail

Honorable Kenneth M. Karas
United States District Judge
United States Courthouse
300 Quarropas Street
White Plains, New York 10601

Re: Jeffrey Deskovic v. City of Peekskill, Putnam County, Westchester County, David Levine, Thomas McIntyre, Walter Brovanski, Eugene Tumolo, John and Jane Doe Supervisors, Daniel Stephens, Louis Roh, Millard Hyland, Peter Insero and Legal Aid Society of Westchester County, Docket No. 07 Civ. 8150 (KMK) (GAY)
Our File No. 12920.00001

Dear Judge Karas:

We are counsel for the City of Peekskill, David Levine and Thomas McIntyre (the "Peekskill Defendants"). We are writing in connection with the pre-sentence investigation report of plaintiff Jeffrey Deskovic, which this court is currently holding *in camera*.

In the Court's discovery order dated November 28, 2012 (Docket Entry #542), the Court denied the Peekskill Defendants' request to release the pre-sentence investigation report stating that the request must be submitted in the first instance to the sentencing court. *Id.* at p.2.

Thereafter, and with the consent of Mr. Deskovic's attorney, we submitted a request for release of the report, and proposed order, to the Supreme Court of the State of New York, Westchester County. We recently received a copy of the Order which was executed by Justice Nicolas Colabella, the same Justice who sentenced Mr. Deskovic on January 18, 1991. The order provides that a copy of the pre-sentence investigation report "may be disclosed to attorneys for record for Jeffrey Deskovic and the City of Peekskill in the federal action entitled *Deskovic v. City of Peekskill, et al.*, 08 Civ. 8150 (KMK), to be used solely in connection with the prosecution and defense of the claims in said action."

We enclose a copy of Justice Colabella's order herewith and renew our request that this Court release a copy of Mr. Deskovic's pre-sentence investigation report.

3 Gannett Drive • White Plains, NY 10604 • p 914.323.7000 • f 914.323.7001

Albany • Baltimore • Boston • Chicago • Connecticut • Dallas • Denver • Garden City • Houston • Las Vegas • London • Los Angeles • Louisville • McLean
Miami • New Jersey • New York • Orlando • Philadelphia • San Diego • San Francisco • Washington, DC • West Palm Beach • White Plains
Affiliates: Berlin • Cologne • Frankfurt • Munich • Paris

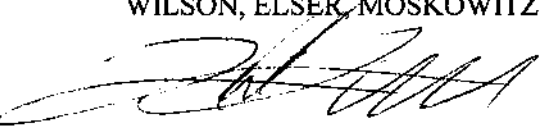
wilsonelser.com

Hon. Kenneth M. Karas
January 9, 2013
Page 2

Respectfully submitted,

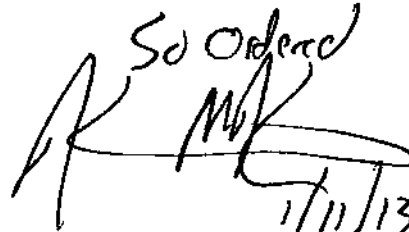
WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

Pursuant to Justice Cohnella's
order, the Court will release Mr.
Deskovic's pre-sentence investigation
report to the Parties.


Lalit K. Loomba

Enclosures

Cc (w/encl.): (via -email):
All counsel of record

So Ordered

1/11/13

<p>Neufeld Scheck & Brustin, LLP Attorneys for Plaintiff Jeffrey Deskovic 99 Hudson Street, Eighth Floor New York, NY 10013 Tel: (212) 965-9081 Fax: (212) 965-9084 Attn: Nick Brustin, Esq. nick@nsbcivilrights.com</p>	<p>Emery Celli Bringerhoff & Abady LLP Attorneys for Plaintiff Linda McGarr Rockefeller Plaza, 20th Floor New York, NY 10019 Attn: Diane Houk, Esq. dhoul@ecbalaw.com</p>
<p>Harwood Lloyd LLC Attorneys for Dan Stephens and Putnam County 130 Main Street Hackensack, NJ 07601 Attn: Robert Delicate, Esq. Tel: (201) 487-1080 Fax: (201) 387-4758 Attn: Robert Delicate, Esq. rdelicate@harwoodlloyd.com</p>	<p>Stillman, Friedman & Schechtman, P.C. Attorneys for Eugene Tumolo 425 Park Avenue New York, NY 10022 Attn: James Mitchell, Esq. jmitchell@stillmanfriedman.com</p>
<p>Gelardi & Randazzo, LLP Attorneys for Putnam County 800 Westchester Avenue, Suite S-608 Rye Brook, NY 10573 Attn: Vincent Gelardi, Esq. vg@vincentgelardi.com</p>	

At a Term of the Supreme Court of the
State of New York, County of Westchester
Held at the Courthouse, 111 Dr. Martin
Luther King, Jr. Blvd., White Plains, New
York on the 31st day of December 2012.

P R E S E N T:

HONORABLE NICHOLAS COLABELLA
JUSTICE OF THE SUPREME COURT

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

----- X
THE PEOPLE OF THE STATE OF NEW YORK

- against -

JEFFREY DESKOVIC

ORDER
Indictment No.
90-0192

Defendant.

----- X

WHEREAS Jeffrey Deskovic was convicted on charges of criminal possession of
a weapon, rape and murder in December 1990 and sentenced in January 1991 to fifteen
years to life imprisonment; and

WHEREAS in 2006, Mr. Deskovic's conviction was vacated and the underlying
indictment (No. 90-0192) was dismissed; and

WHEREAS, Mr. Deskovic thereafter commenced a civil action in federal court
seeking money damages for alleged violations of his constitutional rights, *Deskovic v.*
City of Peekskill, et al., 07 Civ. 8150 (KMK) (the "Federal Action"); and

WHEREAS in connection with discovery in the Federal Action a copy of Mr.
Deskovic's pre-sentence investigation report that was prepared in connection with his
sentencing in January 1991 was produced by the N.Y.S. Department of Corrections to the
Hon. Kenneth Karas for *in camera* review; and

WHEREAS, Judge Karas will not review the pre-sentence report or consider whether it should be disclosed to the parties in the Federal Action without the sentencing court, *i.e.*, this Court, having first issued an order, pursuant to Section 390.50 of the Criminal Procedure Law, authorizing disclosure of the pre-sentence report; and

WHEREAS, attorneys for the City of Peekskill have submitted an application to this Court seeking an Order, pursuant to CPL 390.50, authorizing disclosure of the pre-sentence investigation report; and *on notice to the Westchester County District Attorney* *no objection being received, and*

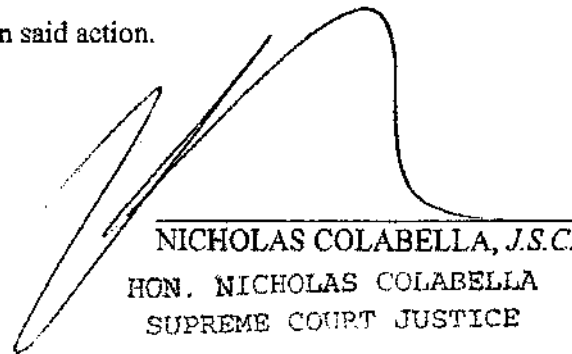
WHEREAS, Mr. Deskovic has consented to the application; and

WHEREAS, this Court believes that there is good cause for an order allowing disclosure of the pre-sentence investigation report.

IT IS HEREBY ORDERED as follows:

A copy of the pre-sentence investigation report prepared in connection with the sentence of Jeffrey Deskovic in January 1991 may be disclosed to attorneys of record for Jeffrey Deskovic and the City of Peekskill in the federal action entitled *Deskovic v. City of Peekskill, et al.*, 07 Civ. 8150 (KMK), to be used solely in connection with the prosecution and defense of the claims in said action.

DATED: White Plains, New York
December 3, 2012



NICHOLAS COLABELLA, J.S.C.
HON. NICHOLAS COLABELLA
SUPREME COURT JUSTICE